

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

Plaintiff,

-v-

No. 17 CR 4-LTS

PEDRO JARAMILLO,

Defendant.

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ORDER

Defendant Pedro Jaramillo moves pro se for an order reducing his sentence pursuant to 18 U.S.C. section 3852(c)(1)(A)(i) to a sentence of time-served and directing his immediate release from custody in light of the current COVID-19 pandemic. (Docket Entry No. 57.)

Section 3852(c)(1)(A)(i) of Title 18 permits the Court to reduce a term of imprisonment upon the motion of a defendant if he has exhausted his administrative remedies and if the Court finds there are extraordinary and compelling reasons which warrant such a reduction. To exhaust his administrative remedies, Mr. Jaramillo must “fully exhaust[] all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant’s behalf” or have made his application after “the lapse of 30 days from the receipt of such a request by the warden of the defendant’s facility. 18 U.S.C. § 3582(c)(1)(A). Mr. Jaramillo proffers that he twice requested, on March 26, and April 3, 2020, that the warden of his facility release him to home confinement and that the warden declined his request on the basis that Mr. Jaramillo is ineligible for release under Bureau of Prisons policy. (Docket Entry No. 57.) This motion was received by the Court on May 4, 2020, and therefore it appears that this

motion was brought more than 30 days after the warden received his request. Accordingly, the Court finds Mr. Jaramillo's proffer sufficient to satisfy the exhaustion requirement.

Mr. Jaramillo argues that the present COVID-19 pandemic and the conditions of his confinement combine to create extraordinary and compelling reasons warranting a reduction of his sentence. Defendant cites several recent decisions in support of his application in which district courts have granted compassionate release applications during this pandemic. Typical of these decisions is United States v. Resnick, No. 12-CR-152 (CM) (S.D.N.Y. Apr. 2, 2020), in which the court granted the compassionate release application of a sixty-five-year-old inmate with diabetes and end-stage liver disease, medical conditions which placed him on the BOP's list of individuals to whom COVID-19 pose a high risk. Mr. Jaramillo does not assert that he is on the BOP's list of high-risk individuals or proffer that he has any medical conditions which expose him to a higher risk of infection or serious complications from COVID-19 than that faced by other individuals at his housing facility. While he asserts that he has a "heightened vulnerability to contracting and perishing from the virus," he proffers no facts from which the Court can conclude that his specific medical condition places him at extraordinary risk of infection by or severe illness from COVID-19.

Accordingly, Mr. Jaramillo has not demonstrated that extraordinary and compelling reasons warrant a reduction of his sentence, and his application is denied.

Chambers will mail a copy of this order to Mr. Jaramillo.

This order resolves docket entry number 57.

SO ORDERED.

Dated: New York, New York
May 8, 2020

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
United States District Judge

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